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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,985	12/21/2004	Xavier Muldermans	L0008/US	3187
30522 7590 09/30/2008 KRATON POLYMERS U.S. LLC WESTHOLLOW TECHNOLOGY CENTER 3333 HIGHWAY 6 SOUTH HOUSTON, TX 77082				
EXAMINER JOHNSON, CONNIE P				
ART UNIT		PAPER NUMBER		
1795				
NOTIFICATION DATE		DELIVERY MODE		
09/30/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kratonip@kraton.com

Office Action Summary

Application No.

10/518,985

Applicant(s)

MULDERMANS ET AL.

Examiner

CONNIE P. JOHNSON

Art Unit

1795

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-14 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-14 and 17-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The remarks and amendment filed 7/8/2008 have been entered and fully considered.
2. Claims 11-14 and 17-30 are presented.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-14 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor et al., U.S. Patent No. 6,127,094

Victor teaches a photopolymerizable composition for use in flexographic printing plates (abstract). The composition comprises an elastomer forming monomer in an amount of 25-95 mol% and a photopolymerization initiator at 0.01 to 20 wt %. The composition also has a support that comprises polyethylene terephthalate (col. 12, line 17). The photopolymerizable composition may also produce a resin relief plates for flexographic printing (col. 11, lines 55-60). Victor also teaches optional linear polymers for inclusion in the block copolymer component of the photopolymerizable composition. The composition also comprises up to 50 wt% of a thermoplastic elastomeric block polymer having a general formula of A-B-A, wherein A is a non-elastomeric polymer block with a molecular weight of 2,000 to 100,000 and B is an elastomeric polymer

block having a molecular weight of 25,000 to 1,000,000 and a glass transition temperature below 10⁰C (col. 3, line 45-col. 4, line 9). Victor also teaches an ethylenically unsaturated monomer in an amount of 5 to 70 wt% in the composition. Suitable ethylenically unsaturated compounds are polyfunctional vinyl monomers such as methacrylic acid, acrylic acid and trimethylolpropane tri(meth)acrylate (col. 4, lines 45-67). The block copolymers may comprise isoprene and butadiene (col. 7, lines 51-65). Although Victor teaches block copolymers in an amount of 10 to 50 wt% in the composition, he does not specifically teach that the block copolymers are present in an 20/80 to 80/20 of isoprene/butadiene. However, it would have been obvious to one of ordinary skill in the art to use the isoprene and butadiene in a copolymer mixture of 20/80 to 80/20 because Victor teaches combining linear polymers, such as isoprene and butadiene to form water-resistant resin compositions after photopolymerization (col. 3, lines 20-38 and col. 8, lines 1-25).

Response to Arguments

5. Applicant's arguments filed 7/8/2008 have been fully considered but they are not persuasive.
6. Applicant argues that the composition of Victor requires components in amounts that would materially affect the basic and novel characteristics of the present invention and would therefore be outside of the scope of the claims. Applicant further argues that the claim language, "consisting essentially of" limits the scope of a claim to the specified materials or steps (MPEP 2111.03)." Further, that the present claims are limited to

those materials recited in elements (a) through (d) of the present claims and those that do not materially affect the basic and novel characteristics of the invention.

Applicant is directed to column 3, lines 45-col. 4, line 9 wherein Victor teaches a composition comprising an elastomeric monomer, an ethylenically unsaturated compound, a photopolymerization initiator and an elastomer block copolymer. Although Victor teaches the liquid isoprene and liquid butadiene as optional linkages in the block in column 7 of the reference, Victor teaches that liquid isoprene and liquid butadiene meet the limitations of monomers for the block copolymer in component (E) (col. 7, lines 40-52). The elastomeric block copolymer of Victor, including the linkages of isoprene/butadiene, continues to read on applicants' formula A-C-A. Therefore, it is not different and is not in addition to the elastomeric block and meets the limitations of applicants' claims. The isoprene and butadiene are not "extras" in Victor.

7. Applicant argues that for element (d), it is recited that the claimed composition can optionally include 0 to 40% of one or more auxiliaries. Further, that the auxiliaries comprise block copolymers and diblocks of S-B or S-I diblock copolymers. Therefore, the diblock copolymers would be considered as auxiliary components of the composition.

Applicant claims a block copolymer with the formula: A-C-A. Victor teaches a block copolymer with a formula A-B-A, the block copolymer may comprise linear components, such as isoprene and butadiene (col. 7, lines 50-52 and col. 8, lines 1-15). These are the same as applicant's block.

8. Applicant argues that the statement from the previous office action filed 4/9/2008, "cannot understand how block copolymers or aromatic resins can be seen as auxiliary" is superfluous. Further, that a composition having additional components outside of the claimed elements are outside of the scope of the claims only if they materially affect the basic and novel characteristics of the invention.

This argument is not superfluous. Applicant is claiming a block copolymer or polymer in an elastomeric polymer composition is not material to the composition. Initially, these auxiliary components were essential. The amended claims deem these same components "unnecessary." Large block copolymers in a polymeric composition appear necessary as initially claimed. The examiner cannot see how they are merely auxiliary. Therefore, the diblock copolymers would have a material affect on the invention.

9. Applicant argues that Victor's composition requires an elastomer monomer, an ethylenically unsaturated carboxylic acid and a polyfunctional vinyl monomer. Further, that Victor requires the components in certain amounts. Therefore, according to applicant, the components of Victor would materially affect the basic and novel characteristics of the invention.

Victor's composition comprises an elastomer monomer, an ethylenically unsaturated carboxylic acid and a polyfunctional vinyl monomer. Victor also teaches a block copolymer that comprises isoprene and butadiene in an A-B-A block copolymer. This is the same as applicant claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Connie P. Johnson whose telephone number is 571-272-7758. The examiner can normally be reached on 7:30am-4:00pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Connie P. Johnson
Examiner
Art Unit 1752

/Cynthia H Kelly/
Supervisory Patent Examiner, Art Unit 1795